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OFFICE OF PETITIONS

In re Application of :
Steven V. Leone :
Application No. 10/688,822 : DECISION ON PETITION
Filed: October 17, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. C4-1099 :
Title: ELECTRONIC ARTICLE :
SURVEILLANCE MARKER DEACTIVATOR :
USING PHASE CONTROL :
DEACTIVATION :

This is a decision on the petition filed January 23, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Ex Parte Quayle Office action, mailed March 11, 2005, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 12, 2005. A notice of abandonment was mailed on January 20, 2006.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be made aware of this decision.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply². Accordingly, since the \$1590 extension of time submitted with the petition on January 23, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's deposit account, as authorized in the petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
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² See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).